

India's Statement at Trade Negotiations Committee meeting at the level of Heads of Delegations held on 7th May 2018

1. Thank you, DG, for convening this informal meeting of the TNC and for your report and assessment as the Chair of the TNC. We also thank the Chairs of the Negotiating Groups for their reports.
2. India associates itself with the statement of Indonesia on behalf of the G-33. We also support the statement of Switzerland on behalf of 38 countries in support of the multilateral trading system.

Mini Ministerial

3. India organized an Informal WTO Ministerial Meeting in New Delhi on 19-20 March 2018 which was attended by 52 delegations and the Director General, WTO. The objective of the meeting was to facilitate a candid discussion to chart a way forward for the WTO. The concluding remarks issued by the Chair, the Indian Commerce and Industry Minister, on his own responsibility are on the WTO website. Let me, however, in the interest of transparency, briefly summarise the discussions at the meeting for the benefit of the larger membership.
 - In almost all interventions members emphasised the need to preserve and enhance the functioning and credibility of the rules based multilateral trading system as embodied in the WTO.
 - Almost all participants sought expeditious and immediate resolution of the impasse in the appointment of Appellate Body members – an issue which was viewed as adversely affecting the credibility and functioning of the organisation.
 - Many members expressed deep concern at the serious threat posed to the credibility of the WTO and some of its cardinal principles by the recent cycle of unilateral trade measures and proposed counter measures.
 - A need for preserving the Special and Differential Treatment for all developing countries and LDCs in future trade negotiations was emphasised by many, while others suggested new ways forward.
 - In many interventions members emphasised the importance of achieving progress on the Doha issues especially agriculture, fisheries subsidies and domestic regulation in services while seeking to address the differences on the basis of pragmatic and flexible options.

- In many interventions it was emphasised that open, transparent and inclusive discussions within the joint initiatives by the proponents of issues such as Electronic Commerce, Investment Facilitation, Gender, MSME etc., would deepen the understanding of issues and benefit all members. However, this was questioned in some other interventions, wherein it was reiterated that all negotiations at the WTO must follow the fundamental principle of multilateralism and that any other approach represents a threat to the multilateral trading system.
 - The meeting recognized that greater engagement was the only way forward and almost all participants recognized the collective responsibility of the Membership to address the challenges facing the system.
4. I know I am competing with lunch, but let me now put forward our views on some of the important issues before us.

Agriculture

5. Agriculture is an issue of core interest to a large part of the Membership. We hope that agriculture negotiations on disciplining the most trade distorting form of domestic support, namely, the complete flexibility on applying the AMS beyond de minimis will soon begin. However, proposals treating the trade distorting subsidies of developed countries at par with the subsistence subsidies of developing countries, including those with zero AMS beyond de minimis, will be a non-starter.
6. Similarly, the work on obtaining a permanent solution on public stockholding for food security for all developing countries and LDCs, has been mandated by Bali, and the Nairobi Ministerial decisions and the GC Decision of November, 2014, and should therefore remain a priority in our agriculture work programme. It will signal WTO's commitment to the UN Sustainable Development Goals 1 and 2, and the fight against hunger and malnourishment across the globe.
7. Market access issues are unlikely to make headway on their own if the DS negotiations are not moving in a meaningful manner. There has always been a 'sequencing' even within the Agriculture pillars. The farmers of developing countries can compete with farmers in developed countries but they cannot compete with the might of their treasuries.
8. There should be regular meetings of the CoASS and dedicated sessions on PSH & SSM with at least 2 meetings before the summer break.

E-Commerce

9. India welcomes the MCXI decision reaffirming the 1998 Work Programme on e-Commerce. As per the decision, let us endeavour to reinvigorate the Work Programme.
10. While e-Commerce has created new and exciting trade and investment opportunities, it also poses new infrastructure and regulatory challenges which need to be addressed first. These include: classification issue as to whether ecommerce should be treated as trade in goods or services; to what extent the existing WTO rules apply to the digital economy; fiscal implications of e-commerce, the moratorium and definition of electronic transmissions; impact of e-commerce on competition and market structures; need for bridging the digital divide.
11. We, therefore, first need to understand the exact nature of electronic trade by discussing these issues in the regular bodies. We are convinced that at this juncture when these technologies are still evolving, we must refrain from endeavouring to arrive at legally binding disciplines.
12. It is the common responsibility of all Members to reinvigorate the 1998 multilateral work programme on e-Commerce. In case the work programme is abandoned, the ecommerce moratorium will die as well.

Services

13. In the area of services, in the run upto MC11, India has constructively engaged on domestic regulations. We offered textual suggestions which factored in the concerns of many developing countries. Going forward, we will continue to engage with Members to develop rules on domestic regulations in services, as per the mandate of GATS Article VI:4. However, for this, the WPDR should be the forum, as it is the only mandated body to negotiate such disciplines. We do not support discussions on domestic regulations elsewhere.
14. It is also of vital importance to simultaneously address entry related measures for movement of professionals. In this context, we would like the membership to seriously consider measures for trade facilitation in services, focused primarily on Mode-IV alongside the negotiations for disciplines on domestic regulations.

Joint Ministerial Statements

15. We are witnessing a new trend in Geneva in the form of the joint initiatives in some areas. Though proponents say these plurilateral discussions are a stepping stone to multilateral agreements, we do not see the logic of

having such discussions outside the WTO for e-Commerce and domestic regulations in services where a multilateral mandate exists.

16. India has also, on several occasions, explained its reservations on the introduction of new issues such as Investment Facilitation and MSME in the WTO till issues under the Doha Work Programme are addressed.

Role of the Secretariat

17. Let me also mention that as laid down in the Marrakesh Agreement, the primary role of the WTO Secretariat is to support and strengthen the multilateral track. Therefore, the limited resources of the Secretariat should remain focused on mandated issues and existing areas of work in the WTO. We urge the Secretariat to accord priority to the work of the regular bodies and negotiating groups over the Joint Statement Groups which are only informal groupings. In this spirit India reiterates its request to the Secretariat to update the Mode 4 submission before the CTS.

DSB

18. India remains extremely concerned about the current impasse in filling vacancies in the AB, its effect on the credibility of the WTO and, more fundamentally, the multilateral trading system. If this is not resolved we all know what the end result will be. The AB will wither away and the dispute settlement system will be rendered weak and ineffective so that trade rules can be violated with impunity through unilateral measures.
19. We agree that there is a need for filling gaps and reforming the DSU and we have pointed this out. Therefore, if Members explain the problems they perceive and offer specific solutions to address them, we are willing to engage constructively. However, filling vacancies in the AB cannot be held hostage to such reforms.

Unilateral Measures

20. India expresses its deep concern on the unilateral trade policy measures applied on steel and aluminium products by one Member. We strongly believe that this raises a systemic issue. Such unilateral measures, on the grounds of security exceptions, are an open and blatant abuse of the WTO provisions. The security exception clause should not become a proxy instrument for applying a global safeguard in an opaque manner and breaching bound tariff commitments made at the WTO.
21. Such unilateral action is bound to have a significant adverse impact on the rules-based multilateral system and will prompt other members to take retaliatory and counter measures. This has a clear risk of spiralling

into a trade war. There are other, legitimate ways for Members to obtain concessions from their trading partners.

Development

22. On the critical issue of trade and development, we are of the firm view that the special and differential treatment provisions for all developing countries and LDCs are an integral part of the WTO Agreement and this principle would need to be protected in all future agreements as well. Therefore, any approach based on selection, like the so-called 'case-by-case' approach to granting special and differential treatment to developing countries is unacceptable.

Conclusion

23. To conclude, India believes that the WTO is in a crisis. The principles of multilateralism and non-discrimination are under attack and Members are reneging from their commitments. Each new day, the system suffers a fresh blow. Chair, we believe, the WTO and the rules based system is like oxygen. When it is there, you take it for granted, but once it is gone, we will all struggle to survive. We, therefore, need to urgently re-establish mutual trust and work to restore the primacy of the rules-based system before it is too late.

Thank you.
